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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,866	06/26/2003	Yunoh Jung	20862.B.NP	5518

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EXAMINER

MANAHAN, TODD E

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,866

Applicant(s)

JUNG ET AL.

Examiner

Todd E. Manahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/23/04, 9/29/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The amendment to the specification filed 12 March 2004 has not been entered because it does not comply with 27 CRR 1.121 (b)(1) which requires applicant to provide a clean copy of the amended paragraphs.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 10 and 29-31 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 8 and 27-29, respectively of copending Application No. 10/606,855. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 11-15, 18-25, 27 and 28 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Presswood (United States Patent No. 5,403,185 cited by applicant).

Presswood discloses a dental articulating system configured to duplicate at least a portion of a patient's mouth for use in producing a dental prosthesis, comprising: a) a pair of trays 12a, 12b, pivotally coupled together, the trays pivoting with respect to one another between: i) a closed configuration, in which the trays are opposingly spaced-apart ii) an open configuration, in which the trays are pivoted away from one from one another; and b) a plurality of registration pin holes 16, formed in at least one of the trays; c) a thin membrane 25, disposed across a registration pin hole, configured to close off the registration pin hole and resist dental casting material from substantially filling the registration pin hole; and d) the thin membrane being breakable by a registration pin 26 inserted into the registration pin hole with the registration pin being extendable through the thin membrane. regarding claim 2, it has been held that the term "integral" is sufficiently broad as to embrace constructions united by such means as fastening. *In re Hotte*, 177 USPQ 326,328 (CCPA 1973). See also *Hendderson v. Grable*, 52 CCPA 920, 339 F.2d 465, 144 USPQ 91 (1964). Regarding claim 5, see figure 3b. Regarding claim 6, see figure 3a.

Claims 29-31 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Welan (United States Patent No. 4,439,151).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Presswood in view of Garland (United States Patent No. 5,846,076 cited by applicant).

Presswood discloses the invention essentially as claimed except for the hinge including i) a pivot axle, associated with one of the trays; ii) a shoulder, extending at least partially around the pivot axle and creating two axle portions extending on each side of the shoulder; and iii) a pair of fingers, associated with another of the trays, pivotally positioned on opposite sides of the pivot axle and on opposite sides of the shoulder and separated by both the axle and the shoulder. Garland discloses an articulator having a hinge including i) a pivot axle, associated with one of the trays; ii) a shoulder, extending at least partially around the pivot axle and creating two axle portions extending on each side of the shoulder; and iii) a pair of fingers, associated with another of the trays, pivotally positioned on opposite sides of the pivot axle and on opposite sides of the shoulder and separated by both the axle and the shoulder. It would have been obvious to one skilled in the art to replace the hinge of the device of Presswood with a hinge comprising i) a pivot axle, associated with one of the trays; ii) a shoulder, extending at least partially around the pivot axle and creating two axle portions extending on each side of the shoulder; and iii) a pair of fingers, associated with another of the trays, pivotally positioned on opposite sides of the pivot axle and on opposite sides of the shoulder and separated by both the axle and the shoulder in view of Garland in order to create a secure pivotal connection between the trays while permitting separation of the trays if desired.

Claims 1-6,9, 11-15, 18-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogensen (United States Patent No. 6,149,428) in view of Presswood.

Mogensen discloses the invention essentially as claimed except for the thin piercable membrane extending across the registration holes. Presswood discloses that it is known in the art to provide an articulator tray with a thin membrane extending across the apertures therein and piercable by a registration pin in order to prevent dental plaster from leaking thru the registration holes in the tray (see col. 4, lines 1-22). It would have been obvious to one skilled in the art to provide the device of Mogensen with a thin membrane extending across the registration pin holes in view of Presswood in order to prevent leakage of dental plaster thru the registration holes.

Claims 1-8, 11-17, 19-26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huffman (United States Patent No. 5,788,489) in view of Presswood.

Huffman discloses the invention essentially as claimed except for the thin piercable membrane extending across the registration holes. Presswood discloses that it is known in the art to provide an articulator tray with a thin membrane extending across the apertures therein and piercable by a registration pin in order to prevent dental plaster from leaking thru the registration holes in the tray (see col. 4, lines 1-22). It would have been obvious to one skilled in the art to provide the device of Huffman with a thin membrane extending across the registration pin holes in view of Presswood in order to prevent leakage of dental plaster thru the registration holes.

With regard to claim 8, Huffman discloses registration struts 7, however they are not hexagonal. To make the registration struts of Huffman hexagonal would have been obvious to one skilled in the art as such would be nothing more than mere change in shape or form of an element. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

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Conclusion

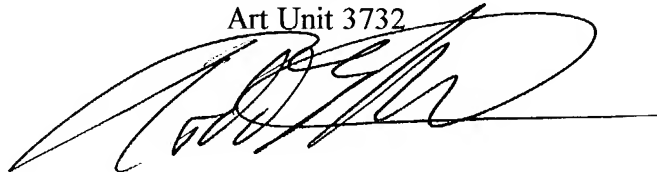
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Kim reference (United States Patent No. 6,511,318) is of particular interest as it discloses registration pins 70 may be of various shapes including hexagonal triangular, oval, etc. (col. 15, lines 34-39).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is 703 308-2695. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 703 308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Todd E. Manahan
Primary Examiner
Art Unit 3732



T.E. Manahan
30 April 2004